



57812  
U.S. Department of Justice

United States Attorney  
District of Massachusetts

RAC:lnf  
Tel.: 223-0284

1107 J.W. McCormack Post Office and Courthouse  
Boston, Massachusetts 02109

September 26, 1984

Paul B. Galvani  
Ropes & Gray  
225 Franklin Street  
Boston, MA 02110

RECEIVED

SEP 28 1984

Re: U.S. v. AVX, et al.  
C.A. No. 83-3882-MC

REGION I  
OFFICE OF REGIONAL COUNSEL

Commonwealth v. AVX  
C.A. No. 83-3899-MC

Dear Mr. Galvani:

Your letter of September 20, 1984 to Charles Bering requires a response from this office. In that letter, you seek to link the timing of the public comment period on EPA's draft Acushnet River Estuary Remedial Investigation/Feasibility Study to the timing of plaintiffs' responses to defendants' discovery requests in these lawsuits. This linkage is entirely unwarranted. It will be strenuously resisted by plaintiffs.

As you know, EPA's administrative process to determine the most cost-effective remedy for the PCB contamination of New Bedford Harbor had a genesis long antedating this litigation. During the course of that process, EPA has had ongoing communications with you and your clients, including the issuance and monitoring of an administrative order. The communications have continued notwithstanding the litigation. I am unaware of any obstacles that the litigation has posed to such communications.

Given this history, plaintiffs see no need to link the public comment process on the draft to the necessarily intensive and time consuming process of civil discovery in this litigation. There is no basis for such linkage, in any event, since EPA's administrative decisions are not subject to judicial review at this stage.

I am informed that EPA intends to close its public comment period on November 15, 1984. That date precedes any reasonable date by which plaintiffs can respond to defendants' voluminous discovery requests. It even more certainly precedes the date by which plaintiffs can actually produce the requested documents or defendants absorb them.

EPA and we do, however, recognize that public comments upon the draft Remedial Investigation/Feasibility Study may be improved where the commenters have access to the reports and studies underlying the draft. Accordingly, I am informed by EPA that requests from defendants or other members of the public for copies of specified underlying public documents will be granted, upon payment of reasonable copying charges. I am confident that this will resolve any of the defendants' problems in commenting upon the draft.

Very truly yours,

WILLIAM F. WELD  
United States Attorney

BY: 

RALPH A. CHILD  
Assistant U.S. Attorney  
Deputy Chief, Civil Division

ELLEN M. MAHAN  
Trial Attorney  
U.S. Department of Justice  
Environmental Enforcement Section  
Land & Natural Resources Division  
Washington, D.C. 20530

cc: William J. Cheeseman  
Jeffrey C. Bates  
David A. McLaughlin  
Daniel J. Gleason  
John Quarles

bcc: Charles Bering  
Robert Brook  
Mary Anne Maul  
Ellen Mahan  
Carolyn Lynch  
Mark Fitzsimmons  
Evan Slavitt  
Lee Breckenridge